

EXHIBIT 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 07-81085-CIV-RYSKAMP/Vitunac

LINDA HALE,

Petitioner,

y.

OPTIONSXPRESS, INC.,

Respondent.

ORDER DENYING MOTION TO DISMISS AND ORDER TRANSFERRING CASE

THIS CAUSE comes before the Court upon Respondent's Motion to Dismiss or Stay Action [DE 9] filed on January 22, 2008. Petitioner responded [DE 12] on January 28, 2008. Respondent replied [DE 14] on February 4, 2008. Thus, the motion is ripe for consideration.

Respondent requests that this Court stay or dismiss this case because of another case involving the same issues that was first filed in the Northern District of Illinois. This Court does not believe that a dismissal or stay of this action is appropriate. In the interest of judicial economy and efficiency, however, this Court had decided to transfer this matter to the Northern District of Illinois.

In Petitioner's argument against the Motion to Dismiss, she argued that a lawsuit commences, not when a complaint is filed, but rather when a respondent is served with process. Petitioner failed to cite any authority to support her argument. It is well settled that a case commences once the complaint is filed. Fed. R. Civ. P. 3; 735 ILCS 5/2-201(a).

In addition, the majority of Petitioner's response brief¹ addressed the issues raised in the

Petitioner submitted a response brief that exceeded the permitted number of pages without leave of court. Thus, this Court has disregarded pages twenty one through twenty seven as they were filed in violation of the local rules. Any arguments raised in those pages, such as Petitioner's request that Respondent be sanctioned, shall not be addressed and will be deemed as if those

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Illinois litigation, giving even more weight to this Court's decision to transfer the case.

As such, the Court has considered the motion and being otherwise fully advised in the premises, it is,

ORDERED AND ADJUDGED that

- (1) Respondent's Motion to Dismiss or Stay Action [DE 9] is DENIED.
- (2) This case shall be TRANSFERRED to the U.S. District Court for the Northern District of Illinois, for consolidation with the pending case entitled *OptionsXpress, Inc. v. Linda Hale*, Docket No. 07-CV-179.
- (3) The Clerk of the Court shall CLOSE this case and DENY any pending motions as MOOT.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 26 day of March, 2008.

/s/ Kenneth L. Ryskamp
KENNETH L. RYSKAMP
UNITED STATES DISTRICT JUDGE

Copies provided:
All counsel of record

pages were never filed.